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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,502	03/26/2004	Mao Asai	9683/176	8169
757	7590	11/15/2005	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610				PERKEY, WILLIAM B
			ART UNIT	PAPER NUMBER
			2851	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/810,502	ASAI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	William B. Perkey	2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. ____ .   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/25/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: ____ .                                   |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (Pub. No. US 2002/0030749 A1) in view of Kubo et al. (U.S. Patent No. 6,795,715 B1) and Niikawa et al. (Pub. No. 2002/0171747 A1).

Nakamura et al. discloses an image capturing apparatus having a plurality of camera devices D1 and D2; a camera controlling means 41-48 that includes a selecting means 48,42 for selecting either camera device D1 or camera device D2 and a camera object generating means as elements 41-45 generating the image data. Thus, Nakamura et al. discloses the claimed invention except for a communication terminal and an attribute setting means for including attributes corresponding to the camera device as part of the generated camera object. Kubo et al. discloses a communication terminal with a camera interface able to transmit and receive still and moving pictures. In Fig. 2 Kubo et al. discloses encoders 16 and 18 for converting the image data into a “unified format” of MPEG or JPEG. Niikawa et al. discloses that various attributes of the image may be manually selected such as still or continuous, image quality, image resolution etc. Niikawa et al. discloses that this sort of data may be stored in a header area that is associated with the image data and that the stored images may be displayed on the display 24 as well as the manually selected attribute data. It would have been obvious to one of ordinary skill in the art at

the time of applicant's invention to provide the image capturing apparatus of Nakamura et al. in a communication terminal such as in a cell phone and to convert the raw image data into a "unified format" such as MPEG or JPEG, in order to obtain the desirable feature of a cell phone with good quality still and video type image generation. It would have been obvious to further provide the image capturing device of Nakamura et al. with conventional attribute features of image capturing devices such as manual selection of various camera parameters such as image quality, resolution, single or video mode, etc., storing the attribute information (which is part of the generated camera object) in a storage device, and reproducing the stored image and attribute information in order to obtain the desirable feature of displaying the stored images on the display of the device.

3. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of acknowledged Prior Art.

The admitted prior art is that subject matter that was taken Official Notice of in the previous Office action, and no traversal has been made. When the subject matter of Official Notice is not seasonably traversed, that subject matter is taken to be admitted prior art. In re Cleveland, 139 F.2d 71, 60 USPQ (CCPA 1943). Official Notice was taken that cell phones with digital cameras in them conventionally contain programs that pauses the program in, order to run a sub-routine before continuing on with the program. This is a common ordinary programming technique well known at the time of applicant's invention. Official Notice was also taken that the number of and the size of the captured images were well known as selective attributes of electronically capturing an image at the time of applicant's features. This subject matter is now acknowledged Prior Art.

The rejection based on the references as set forth in the above numbered paragraph 2 meets the claim limitations as explained above except for the camera device controlling means pausing the execution, when the camera function calling means calls in accordance with said program another program of claim 2 and the camera device controlling means acquiring the number and image size and image size of the image data stored in said camera object. It would

have been obvious to one of ordinary skill in the art to use sub-routines within the program that runs the CPU of the Nakamura et al. image capture devices and the cell phone functions that were added to it in the above rejection in order to obtain the desirable feature of simplifying the make up the computer program. To include conventional features such as selection of the number of images and the image size into the image capture device of Nakamura et al. would have been obvious in order to obtain the desirable feature of obtaining captured images of a desired number and size.

*Response to Arguments*

4. Applicant's arguments filed October 25, 2005 have been fully considered but they are not persuasive. Applicant asserts that none of the references suggest operating the plurality of cameras in a "unified format". The examiner disagrees. Fig. 2 of Kubo et al. discloses converting the raw image data of the camera into the MPEG or JPEG format. The MPEG and JPEG formats are well known common formats. This is done in order to allow operations on raw image files by a common or universal image processing apparatus. These are "unified formats".

*Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### **Telephone Numbers**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William B. Perkey, whose telephone number is (571) 272-2126. The examiner can normally be reached on Monday-Thursday 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William B. Perkey  
Primary Examiner  
Art Unit 2851

WBP:wpb